

## § 4.402

### § 4.402 Summary dismissal.

An appeal to the Board will be subject to summary dismissal by the Board for any of the following causes:

(a) If a statement of the reasons for the appeal is not included in the notice of appeal and is not filed within the time required;

(b) If the notice of appeal is not served upon adverse parties within the time required; and

(c) If the statement of reasons, if not contained in the notice of appeal, is not served upon adverse parties within the time required.

(d) If the statement of standing required by § 4.412(b) is not filed with the Board or is not served upon adverse parties within the time required.

[36 FR 7186, Apr. 15, 1971, as amended at 47 FR 26392, June 18, 1982]

### § 4.403 Finality of decision; reconsideration.

A decision of the Board shall constitute final agency action and be effective upon the date of issuance, unless the decision itself provides otherwise. The Board may reconsider a decision in extraordinary circumstances for sufficient reason. A petition for reconsideration shall be filed within 60 days after the date of a decision. The petition shall, at the time of filing, state with particularity the error claimed and include all arguments and supporting documents. The petition may include a request that the Board stay the effectiveness of the decision for which reconsideration is sought. No answer to a petition for reconsideration is required unless so ordered by the Board. The filing, pendency, or denial of a petition for reconsideration shall not operate to stay the effectiveness or affect the finality of the decision involved unless so ordered by the Board. A petition for reconsideration need not be filed to exhaust administrative remedies.

[52 FR 21308, June 5, 1987]

#### APPEALS TO THE BOARD OF LAND APPEALS

### § 4.410 Who may appeal.

(a) Any party to a case who is adversely affected by a decision of an of-

## 43 CFR Subtitle A (10-1-09 Edition)

ficer of the Bureau of Land Management or of an administrative law judge shall have a right to appeal to the Board, except—

(1) As otherwise provided in Group 2400 of chapter II of this title,

(2) To the extent that decisions of Bureau of Land Management officers must first be appealed to an administrative law judge under § 4.470 and part 4100 of this title,

(3) Where a decision has been approved by the Secretary, and

(4) As provided in paragraph (e) of this section.

(b) A party to a case, as set forth in paragraph (a) of this section, is one who has taken action that is the subject of the decision on appeal, is the object of that decision, or has otherwise participated in the process leading to the decision under appeal, *e.g.*, by filing a mining claim or application for use of public lands, by commenting on an environmental document, or by filing a protest to a proposed action.

(c) Where BLM provided an opportunity for participation in its decision-making process, a party to the case, as set forth in paragraph (a) of this section, may raise on appeal only those issues:

(1) Raised by the party in its prior participation; or

(2) That arose after the close of the opportunity for such participation.

(d) A party to a case is adversely affected, as set forth in paragraph (a) of this section, when that party has a legally cognizable interest, and the decision on appeal has caused or is substantially likely to cause injury to that interest.

(e) For decisions rendered by Departmental officials relating to land selections under the Alaska Native Claims Settlement Act, as amended, any party who claims a property interest in land affected by the decision, an agency of the Federal Government or a regional corporation shall have a right to appeal to the Board.

[47 FR 26392, June 18, 1982, as amended at 68 FR 33803, June 5, 2003]

### § 4.411 Appeal; how taken, mandatory time limit.

(a) A person who wishes to appeal to the Board must file in the office of the